



STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION OR :
REVOCATION OF THE CERTIFICATION OF :

LUIS S. RODRIGUEZ, C.H.H.A. :
Certificate No. 26NH12313800 :

ADMINISTRATIVE ACTION

**FINAL ORDER OF
DISCIPLINE**

TO PRACTICE AS A HOME HEALTHCARE :
AID IN THE STATE OF NEW JERSEY :

This matter was opened to the New Jersey State Board of Nursing (the "Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Louis Rodriguez ("Respondent") is a certified home healthcare aid in the State of New Jersey, certificate number 26NH12313800, and has been certified at all times relevant hereto.

2. Upon receipt of a flagging notice indicating that Respondent was arrested on February 13, 2012 by the Camden Police Department for violation of one (1) count of N.J.S.A. 2C:20-7, Receiving Stolen Property; and one (1) count of N.J.S.A. 2C:29-2(a)(3)(b), Eluding - Substantial Risk of Physical Injury, the Board sent a letter of inquiry requesting certain information and the submission of documents to Respondent's address of record in Camden, New Jersey via regular and certified mail, on or about February 16, 2012. A response was due within twenty (20) days. The regular mail was not returned; the certified mail was returned to the Board "unclaimed".

3. As of the date of the Provisional Order of Discipline, Respondent had not provided a response to the Board's requests for information and documentation.

CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's requests for information and documentation constitutes a failure to cooperate with a Board investigation in contravention of N.J.A.C. 13:45C-1.2(a). Pursuant to N.J.A.C. 13:45C-1.2(b), N.J.A.C. 13:45C-1.3(a)(2), and N.J.A.C. 13:45C-1.3(a)(5) the Board considers Respondent's failure to cooperate to be professional misconduct

within the meaning of N.J.S.A. 45:1-21(e), subjecting Respondent to disciplinary action pursuant to N.J.S.A. 45:1-21(h), N.J.S.A. 45:1-25, and N.J.S.A. 45:1-22.

DISCUSSION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking the suspension of Respondent's certification to practice as a home health aide in the State of New Jersey and a fine of two-hundred dollars (\$200.00) was entered on July 11, 2012. A copy was forwarded to Respondent's last known address by means of both regular and certified mail. The regular mail was not returned, and the certified mail was received and signed for on July 18, 2013. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

On or about August 3, 2012, Respondent provided the Board with a written response from his attorney, Michael W. Kahn, P.C. The attorney stated that Respondent's lack of response to the letter of inquiry was due to a clerical error in the attorney's office. The response further stated that Respondent had not yet been indicted on the criminal charges. On or about November 23, 2012, Respondent, through his attorney, provided the Board with a written update on the criminal charges. The letter stated that the charges were downgraded to a municipal offense and a court date was pending.

On or about March 21, 2013, Respondent, through his attorney, provided the Board with another written update on the criminal charges. The letter stated that Respondent appeared before the Camden County Municipal Court on January 14, 2013 and all criminal charges in this matter were dropped.

The Board, after review of all the submissions in this matter found that a suspension was no longer warranted. However, as a certificate holder, Respondent is responsible for ensuring that all Board inquiries are answered completely and in a timely manner. The Board also finds that an Order should not be required to elicit a response from a licensee to a Board request for information because, if a licensee can, with impunity, provide an incomplete response and/or delay responding

to Board inquiries without any penalties, the Board is hampered from performing its functions. Respondent's response was received only after the Board contemplated taking disciplinary action against his certification. The Board determined that a civil penalty is therefore still appropriate and the Provisional Order should be made final, imposing the \$200.00 civil penalty based upon Respondent's failure to timely respond to a Board request for information.

**ACCORDINGLY, IT IS on this 31 day of January, 2014,
ORDERED that:**

1. Respondent shall remit payment of a monetary penalty, pursuant to N.J.S.A. 45:1-25 in the amount of \$200.00 by certified check or money order, payable to the State of New Jersey, delivered to George Herbert, Executive Director, State Board of Nursing, P.O. Box 45010, Newark, NJ 07101. Payment shall be made no later than fifteen (15) days after notice of the entry of this Final Order is served in this matter, including an Order which is finalized by default. In the event Respondent fails to make a timely payment, a certification of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

3. Nothing herein precludes the Board from taking action on the underlying conduct that was originally the subject of inquiry in this matter.

NEW JERSEY STATE BOARD OF NURSING

By: _____

Patricia Murphy, PhD, RN
Patricia Murphy, PhD, RN
Board President